

BellSouth Telecommunications, Inc.
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REC'D TN
REGULATORY AUTH.
June 19, 2000 1:00 PM
OFFICE OF THE
EXECUTIVE SECRETARY



Patrick Turner
Attorney

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Tariff Filing for Contract Service Arrangement TN00-0796-00*
Docket No. 00-00373

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Proposal for Approval of CSA TN00-0796-00.

Very truly yours,

A handwritten signature in cursive script that reads "Patrick W. Turner".

Patrick W. Turner

PWT:ch
Enclosure

Handwritten initials, possibly "6-21-00", enclosed in a circle.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

**In Re: BELLSOUTH TELECOMMUNICATIONS, INC. TARIFF FILING FOR
 CONTRACT SERVICE ARRANGEMENT TN00-0796-00**

Docket No. 00-00373

**BELLSOUTH'S PROPOSAL FOR APPROVAL OF
CSA TN00-0796-00**

During the June 6, 2000 Directors' Conference, the Directors approved a motion to "require BellSouth to make the customer aware of the [Proposed Settlement Agreement in the Show Cause Docket] and advise the customer that there are termination charges in an agreed settlement that are not as harsh as the ones in this [CSA] and get a response from that customer before we approve it." Tr. at 25. In the two weeks since this motion prevailed, the Proposed Settlement Agreement in the Show Cause Docket has been placed on the Agenda for the Director's June 20, 2000 Conference; the CAD, NEXTLINK, and SECCA each have filed petitions regarding the Show Cause Docket; and the Proposed Settlement Agreement apparently has been removed from the Agenda.

In light of these developments, BellSouth respectfully requests that the Directors approve this CSA on the condition that if the Proposed Settlement Agreement is approved, within 30 days of the effective date of the tariffs BellSouth files pursuant to that approved agreement, BellSouth must:

1. Provide the customer with written notification that:

- A. The tariffs filed by BellSouth have become effective; and
- B. BellSouth waives its right, upon the customer's early termination of this contract, to collect termination liability charges from the customer that exceed the lesser of (a) the termination liability charges permitted under the effective tariffs; or (b) the termination liability charges permitted by the CSA as signed by the customer; and

2. File proof of such notification with the TRA.

As explained below, this proposal will provide the customer with the benefit of its bargain or the benefit of the approved settlement agreement – whichever is more favorable to the customer – without placing BellSouth at a competitive disadvantage.

I. REQUIRING BELL SOUTH TO IMPLEMENT THE TERMINATION LIABILITY LIMITATIONS SET FORTH IN THE PROPOSED SETTLEMENT AGREEMENT BEFORE THE EFFECTIVE DATE OF TARIFFS FILED PURSUANT TO THE APPROVED AGREEMENT PLACES BELL SOUTH AT AN UNFAIR COMPETITIVE DISADVANTAGE.

Requiring BellSouth to implement the termination liability limitations set forth in the Proposed Settlement Agreement before its competitors implement the same limitations would place BellSouth at an unfair competitive advantage. For example, a BellSouth customer could accept an offer from a competitor and pay BellSouth a relatively nominal termination liability charge. If a Time Warner customer wanted to accept a competitive offer from BellSouth (or from another CLEC), however, a "full buyout" termination liability charge could stand in that customer's way. See Transcript of Hearing in Docket Nos. 98-00559, 99-00210, and 99-00244, Vol. II.A at 62 (Testimony of Time Warner witness David Darrohn)("Q: Now, the

termination liability from the tariff that you referred to earlier -- and I think the example you gave was if you have a five-year contract and you cancel after one year, you pay the remaining four years; is that correct? A. Yes.").

In that event, disparate regulatory treatment (rather than competitive forces) would create an unreasonable prejudice or disadvantage against BellSouth by making it more difficult for BellSouth to win customers from its competitors than for competitors to win customers from BellSouth. Such an unreasonable prejudice or disadvantage would run counter to Tennessee's explicit telecommunications policy of protecting consumer interests "without unreasonable prejudice or disadvantage to any telecommunications services provider" See T.C.A. §65-4-123 (emphasis added).

BellSouth's proposal remedies this inequity while providing the customer with the benefits of the Proposed Settlement Agreement upon its approval. Until BellSouth's competitors implement the termination liability provisions set forth in the Proposed Settlement Agreement, the termination liability provisions to which the customer has already agreed will remain in effect. Once BellSouth's competitors implement these limitations, however, these limitations will apply to the customer unless the provisions the customer itself negotiated are more favorable to the customer.

II. BELLSOUTH REQUESTS THE TRA TO ALLOW THE CUSTOMER TO ENJOY THE BENEFITS OF COMPETITION WITHOUT THE DELAY INEVITABLY CREATED WHEN CUSTOMERS ARE REQUIRED TO CONSENT TO A PROPOSAL THAT CANNOT POSSIBLY PREJUDICE THE CUSTOMER.

As BellSouth has stated in the past, customers frequently express displeasure over having to sign addenda and amendments to CSAs they have already signed. Heeding the direction given by the Directors, however, BellSouth has consistently taken the requisite addendum and amendments back to customers in order to obtain approval of CSAs. This CSA was no different – it contains the requisite Tennessee addendum signed by the customer.

Having already re-contacted this customer in order to obtain this Addendum, BellSouth respectfully request the Directors to eliminate the need for the customer to sign yet another amendment by adopting BellSouth's proposal. The internal review processes of many customers (which often include review and approval by several departments and review by either in-house or outside legal counsel) usually is quite time-consuming, and as noted above, customers have been upset when BellSouth has asked for additional documentation regarding negotiated provisions to which the customer believes it has already agreed. Further, the delay created by this additional process is yet another competitive disadvantage to BellSouth, because CLECs can implement a special contract by merely filing a written summary of the contract with the TRA. See Rule 1220-4-8-.07(3).

CONCLUSION

As noted during the June 6, 2000 Director's Conference, "as we have well found out down here, things tend to change mighty fast." Tr. at 26. That statement certainly has turned out to be true in this docket. A week after the Directors' ruling on the motion, the Proposed Settlement Agreement in the Show Cause Docket appeared on the Agenda for the June 20, 2000 Director's Conference. A week later, three petitions had been filed; BellSouth's responses to those petitions had been filed; and the Proposed Settlement Agreement appears to have been removed from the June 20, 2000 agenda.

BellSouth respectfully submits that delaying consideration of pending BellSouth CSAs until the resolution of the Proposed Settlement Agreement significantly impairs BellSouth's ability to compete in the very markets in which its competitors are thriving. BellSouth's proposal, on the other hand, clearly is beneficial to the customer and it ensures that the customer will be informed of the revised termination provisions upon their effective date. BellSouth, therefore, respectfully requests the TRA to approve this CSA under the conditions set forth above.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



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CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☒ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight

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